



7160 3901 9842 8019 8255

3. Service Type CERTIFIED MAIL

4. Restricted Delivery? (Extra Fee) Yes

1. Article Addressed to:

ERIE COUNTY DISTRICT ATTORNEY
ERIE COUNTY COURTHOUSE
ERIE, PA. 16501

4-363E, O/P, 11/9/05, SRB

PS Form 3811, January 2003

Domestic Return Receipt

2. Article Number



7160 3901 9842 8019 8248

3. Service Type CERTIFIED MAIL

4. Restricted Delivery? (Extra Fee) Yes

1. Article Addressed to:

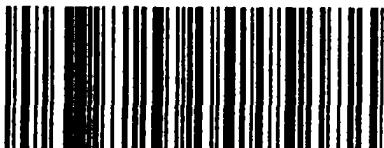
ATTORNEY GENERAL COMMONWEALTH OF PA
564 FORBES AVENUE
6TH FLOOR MANOR BLDG
PITTSBURGH, PA. 15218

4-363E, O/P, 11/9/05, SRB

PS Form 3811, January 2003

Domestic Return Receipt

2. Article Number



7160 3901 9842 8019 8231

3. Service Type CERTIFIED MAIL

4. Restricted Delivery? (Extra Fee) Yes

1. Article Addressed to:

JAMES VESAROCO, WARDEN
ERIE COUNTY PRISON
1618 ASH STREET
ERIE, PA. 16503

4-363E, O/P, 11/9/05, SRB

PS Form 3811, January 2003

Domestic Return Receipt

A. Received by (Please Print Clearly)		B. Date of Delivery
		11/14/05
C. Signature		
X		
D. Is delivery address different from item 1? If YES, enter delivery address below:		<input type="checkbox"/> Yes <input type="checkbox"/> No

Agent
 Addressee

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)		B. Date of Delivery
Cecilia Cleaver		11/10/05
C. Signature		
X		
D. Is delivery address different from item 1? If YES, enter delivery address below:		<input type="checkbox"/> Yes <input type="checkbox"/> No

Agent
 Addressee

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)		B. Date of Delivery
Carey Nicholson		11/12/05
C. Signature		
X Carey Nicholson		
D. Is delivery address different from item 1? If YES, enter delivery address below:		<input type="checkbox"/> Yes <input type="checkbox"/> No

Agent
 Addressee

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

RULE AND ORDER

AND NOW, this 13th day of October, 2005,

IT IS ORDERED that the United States Marshal shall make service of this order, together with a copy of the petition, upon the Respondent, the District Attorney of Erie County, and the Attorney General of the Commonwealth of Pennsylvania. It is Petitioner's responsibility to cooperate with the U.S. Marshal Service in this regard; Petitioner's failure to do so may result in the dismissal of this action for failure to prosecute. Costs shall be advanced by the United States of America.

IT IS FURTHER ORDERED that within twenty days of service of this order, the respondent, and the District Attorney of Erie County, Pennsylvania shall respond to the allegations of the petition for writ of habeas corpus. The District Attorney shall address all of the following 1) the statute of limitations, 28 U.S.C. § 2254(d)(1)-(2); 2) the exhaustion of state court remedies as required by 28 U.S.C. §§ 2254(b) and Picard v. Connor, 404 U.S. 270 (1971); Rose v. Lundy, 455 U.S. 509 (1982); United States ex. rel. Trantino v. Hatrack, 563 F.2d 86 (3d Cir. 1977); Zicarelli v. Gray, 543 F.2d 466 (3d Cir. 1976), with respect to each claim raised by the Petitioner and, if appropriate, whether any of the claims were procedurally defaulted, and 3) the merits of the petition. The answer shall comply with Rule 5 of the Rules Governing Section 2254 cases in the United States District Courts. The District Attorney shall furnish this court with the state court records, including all transcripts, all briefs filed by the Petitioner, and all

Case 1:04-cv-00363-SJM-SPB Document 14 Filed 10/13/2005 Page 2 of 2

written opinions of the state courts/agencies as well as certified copies of the docket sheets of all the state courts/agencies involved.

IT IS FURTHER ORDERED that the parties are allowed ten (10) days from this date to appeal this order to a district judge pursuant to Rule 72.1.3(B) of the Local Rules for Magistrates. Failure to appeal within ten (10) days may constitute waiver of the right to appeal.

S/ Susan Paradise Baxter
SUSAN PARADISE BAXTER
Chief United States Magistrate Judge

cc: District Attorney of Erie County
Attorney General of Pennsylvania

CERTIFIED FROM THE RECORD

Date 10-17-05
ROBERT V. BARTH, JR., CLERK

By Silvia L. Maya
Deputy Clerk